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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

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11 ANGELES CHEMICAL COMPANY,  
INC., a California corporation, et al.,

12 Plaintiff,

13 vs.

14 MCKESSON CORPORATION, a  
15 California corporation, et al.,

16 Defendant.

Northern District Miscellaneous Matter  
Case No. C 06-80343 Misc MMC (EDL)  
Case No. C 07-80123 Misc MMC (EDL)

Case No. 01-10532 TJH (Ex)  
Central District of California

**DECLARATION OF DIANE L. GIBSON IN  
SUPPORT OF SSD'S OPPOSITION TO  
PLAINTIFFS' EX PARTE MOTION FOR  
ORDER SHORTENING TIME TO BRIEF  
AND HEAR PLAINTIFFS' MOTION TO  
COMPEL**

17  
18 Date: TBA  
19 Time: TBA  
20 Courtroom: Courtroom E, 15th Floor

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Declaration of Diane L. Gibson in Support of  
SSD's Opposition to Order Shortening Time on  
Motion to Compel

Northern Dist. Misc. Matter  
Case No. C 06-80343 Misc MMC (EDL)

1 I, Diane L. Gibson, declare as follows:

2 1. I am an attorney at law, licensed to practice before this court, various other federal  
3 courts, and all of the courts of the State of California. I am a partner with the law firm of Squire,  
4 Sanders & Dempsey L.L.P. ("SSD") and am one of the attorneys for SSD, third-party subpoena  
5 recipient, in this matter.

6 2. Attached as **Exhibit A** is a true and correct copy of a letter from me as SSD's  
7 counsel to Plaintiffs' counsel dated March 28, 2007.

8 3. Attached as **Exhibit B** is a true and correct copy of an e-mail string including an e-  
9 mail from me as SSD's counsel to Plaintiffs' counsel dated March 28, 2007 (without the attached  
10 letter from me to Plaintiffs' counsel of the same date, which is **Exhibit A** hereto), an e-mail from  
11 me as SSD's counsel to Plaintiffs' counsel dated March 29, 2007, and an e-mail from Plaintiffs'  
12 counsel to me as SSD's counsel dated March 29, 2007 .

13 4. A true and correct copy of a letter from me as SSD's counsel to Plaintiffs' counsel  
14 dated April 5, 2007 and attachments are attached as **Exhibit C**

15 5. Attached as **Exhibit D** is a true and correct copy of an e-mail string including an e-  
16 mail from John Edgcomb, counsel for McKesson, to Plaintiffs' counsel dated April 9, 2007, an e-  
17 mail from Plaintiffs' counsel to me as SSD's counsel dated April 9, 2007, an e-mail from Mr.  
18 Edgcomb to Plaintiffs' counsel dated April 9, 2007, and an e-mail from Plaintiffs' counsel to Mr.  
19 Edgcomb and me as SSD's counsel dated April 9, 2007.

20 6. Attached as **Exhibit E** is a true and correct copy of an email from me as SSD's  
21 counsel to Plaintiffs' counsel dated April 10, 2007.

22 7. Attached as **Exhibit F** is a true and correct copy of a letter from me as SSD's  
23 counsel to Plaintiffs' counsel dated April 11, 2007 with its attached letter from Diane L. Gibson  
24 of SSD to Plaintiffs' counsel of the same date.

25 8. Attached as **Exhibit G** is a true and correct copy of an e-mail from Plaintiffs'  
26 counsel to me as SSD's counsel dated April 12, 2007.

27 9. On April 19, 2007 I, along with Suzanne Henderson (another attorney representing  
28 SSD), called Plaintiffs' counsel Jeff Caufield because at that time we believed we would need an

Declaration of Diane L. Gibson in Support of  
Opposition to Order Shortening Time on  
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1 extension of time to review some recently-located documents. During that conversation, Mr.  
2 Caufield repeated some of the arguments made in the April 12, 2007 letter, attached as Exhibit G.  
3 Although the principal issue in the call was the extension of time request (which Mr. Caufield  
4 refused to grant, but which later proved not to be necessary after all) I told Mr. Caufield that we  
5 intended to propose a compromise shortly.

6 10. Attached as **Exhibit H** is a true and correct copy of a letter from me as SSD's  
7 counsel to Plaintiffs' counsel dated April 16, 2007.

8 11. Attached as **Exhibit I** is a true and correct copy of an e-mail string including an e-  
9 mail from me as SSD's counsel to Plaintiffs' counsel dated April 19, 2007, and an e-mail from  
10 Plaintiffs' counsel to me as SSD's counsel dated April 19, 2007, in which he states that Plaintiffs  
11 "anticipate moving ex parte on those privilege logs by the end of this week."

12 12. Attached as **Exhibit J** is a true and correct copy of a letter from me as of SSD's  
13 counsel to Plaintiffs' counsel, dated April 19, 2007.

14 13. Attached as **Exhibit K** is a true and correct copy of a letter from me as SSD's  
15 counsel to Plaintiffs' counsel dated April 19, 2007 with attached privilege log.

16 14. Attached as **Exhibit L** is a true and correct copy of an e-mail string including an e-  
17 mail from me as SSD's counsel to Plaintiffs' counsel dated April 20, 2007, an e-mail from  
18 Plaintiffs' counsel to me as SSD's counsel dated April 20, 2007, and an e-mail from me as SSD's  
19 counsel to Plaintiffs' counsel dated April 23, 2007, confirming that SSD intended to propose a  
20 compromise.

21 15. Attached as **Exhibit M** is a true and correct copy of an e-mail from me as SSD's  
22 counsel to Plaintiffs' counsel dated April 24, 2007 at 4:39 p.m. with its attached letter from Diane  
23 L. Gibson of SSD to Plaintiffs' counsel of the same date. In this letter, SSD responded to  
24 Plaintiffs' arguments and offered a compromise to provide information on indexes.

25 16. Attached as **Exhibit N** is a true and correct copy of an e-mail from Plaintiffs'  
26 counsel to me as SSD's counsel dated April 24, 2007 at 4:46 p.m. in which Mr. Caufield rejected  
27 SSD's proposed compromise seven minutes after it was sent to him.  
28

17. On May 7, 2007 at approximately 11:00 a.m. I received a telephone call from Plaintiffs' counsel Joseph Rossettie, who said he was calling to ask SSD to stipulate to an order shortening time for a hearing on a motion about SSD's privilege log. He said that a regularly-scheduled motion could not be heard until early June, and that his clients' discovery cutoff was in the first part of June. I asked Mr. Rossettie what date he proposed. He replied "sometime next week." I told Mr. Rossettie that I was unwilling to agree to such short notice to SSD, a non-party subpoena recipient, given the fact that his office had known of this discovery dispute since mid-April but had not yet filed a motion. In particular, I told Mr. Rossettie that SSD would not agree to Plaintiffs having taken weeks to prepare their motion, and SSD having less than the statutory notice period to oppose it. Mr. Rossettie stated that SSD had been aware of the dispute from Plaintiffs' meet and confer letters earlier in April. I explained that a meet and confer letter is not a motion, that as SSD's counsel I could not know what arguments would be made by Plaintiffs or what specific relief would be sought by Plaintiffs until a motion was filed and served, and that SSD was not on notice to prepare an opposition to some hypothetical non-specified motion until the motion was filed and served. I asked Mr. Rossettie to tell me specifically what briefing schedule he would propose; he said he would have to get back to me.

18. Attached as **Exhibit O** is a true and correct copy of an e-mail from Plaintiffs' counsel to me as SSD's counsel dated May 7, 2007 at 11:59 a.m. proposing a schedule that would give SSD only four Court days to oppose the motion.

19. Attached as **Exhibit P** is a true and correct copy of an e-mail from me as SSD's counsel to Plaintiffs' counsel dated May 7, 2007 at 1:44 p.m.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 10th day of May 2007 at San Francisco, California.

/s/Diane L. Gibson

Diane L. Gibson

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## Declaration of Diane L. Gibson in Support of Opposition to Order Shortening Time on Motion to Compel

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